

04-697

18 SEPTEMBER 2002

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE

DEPARTMENT OF THE NAVY

OF

THE UNITED STATES OF AMERICA

AND

THE MINISTRY OF DEFENSE

OF

AUSTRALIA

REGARDING THE ASSIGNMENT

OF

LIAISON OFFICERS

CERTIFIED TO BE A TRUE COPY



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PREAMBLE

The United States Navy (U.S. Navy) and the Royal Australian Navy (each referred to herein individually as a "Party" and together as the "Parties"), desiring to establish formal liaisons between the Parties, hereby agree to the following terms and conditions regarding the assignment of an individual at government facilities to serve as a Liaison Officer between them, recognizing that the Agreement Concerning the Establishment of Certain Defence Commitments of 1 December 1995 signed between the Government of the United States of America and the Government of the Commonwealth of Australia applies to this Foreign Liaison Officer (FLO) Agreement.

ARTICLE I DEFINITIONS

In addition to any terms defined in other provisions of this Understanding, the following terms shall have the following meanings when used herein:

1.1 "Classified Information" shall mean official information of a Party that requires protection in the interests of national security of such Party and is so designated by the application of security classification markings.

1.2 "Contact Officer" shall mean a U.S. Department of Defense (DoD) official designated in writing to oversee and control all contacts, requests for information, consultations, access, and other activities of foreign liaison officers who are assigned to, or are visiting, a DoD component or subordinate organization.

1.3 "Controlled Unclassified Information" shall mean unclassified information of a Party to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of such Party. It includes United States information that is exempt from public disclosure or subject to export controls.

1.4 "Host Government" shall mean the national government of the Host Party.

1.5 "Host Party" shall mean the United States Navy pursuant to an assignment by a Parent Party under Article III.

1.6 "International Visits Program (IVP)" shall mean the program established to process visits by, and assignments of, foreign representatives to United States Department of Defense Components and Department of Defense contractor facilities. It is designed to ensure that Classified and Controlled Unclassified Information to be disclosed to foreign nationals has been properly authorized for disclosure to their governments; that the requesting foreign government provides a security assurance on such foreign nationals and their sponsoring organization or firm, when Classified Information is involved in the visit or assignment, and that administrative arrangements (e.g., date, time and place) for the visit or assignment are provided.

1.7 "Liaison Officer" shall mean a military or civilian employee of a Parent Party, who, upon approval or certification of the host Party or Government, is authorized by the Parent Party to act as its official representative in connection with programs, projects, or agreements of interest to the Parties' Governments.

1.8 "Parent Government" shall mean the Commonwealth of Australia ("Australia").

1.9 "Parent Party" shall mean the Party that assigns a Liaison Officer pursuant to Article III.

ARTICLE II SCOPE

2.1 During the term of this Understanding, subject to the agreement of the Parties, Australia may assign military members of its armed forces to serve as a Liaison Officer to the Host Party in accordance with the terms of this Understanding.

2.2 The establishment of each Liaison Officer position under this Understanding shall be based upon the demonstrated need for, and the mutual benefit of, this position to the Parties. Once established, each Liaison Officer position shall be subject to periodic review by either Party to ensure that the position continues to be required by, and is of mutual benefit to, the Parties. The Parties agree that a Liaison Officer position no longer required by, or of mutual benefit to, either Party shall be subject to elimination.

2.3 Commencement of such a tour of duty by a Liaison Officer shall be subject to any requirements that may be imposed by the Host Party or its government regarding formal certification or approval of Liaison Officers. Liaison Officers to be assigned by their Parent Party to locations in the United States shall be requested pursuant to the International Visits Program (IVP), as defined in Paragraph 1.6 of this Understanding.

2.4 Unless otherwise agreed, the normal tour of duty for a Liaison Officer shall be two years.

2.5 As a general rule, an individual may serve as a Liaison Officer to only one major military command of the Host Party at any point in time.

ARTICLE III DUTIES AND ACTIVITIES

3.1 A Liaison Officer shall represent the Parent Party to the Host Party. A Liaison Officer shall not perform duties reserved by the laws or regulations of the Host Government to officers or employees of the Host Government, nor shall a Liaison Officer provide any labor or services to the Host Government or any of its agencies, including the Host Party.

3.2 A Liaison Officer shall be required to comply with all applicable Host Government policies, procedures, laws and regulations. The Host Party shall assign a Contact Officer to provide guidance to a Liaison Officer concerning policies, procedures, laws and regulations of the Host Party, and to arrange for activities consistent with such requirements and the purposes of this Understanding.

3.3 A Liaison Officer may request access to Host Party facilities by submitting a request to the Contact Officer. Access to Host Party facilities may be granted if such access promotes the purposes of this Understanding, is consistent with the terms of any applicable certification or approval issued by the Host Government, and is permitted under the applicable policies, procedures, laws and regulations of the Host Government. Approval of such requests shall be at the discretion of the Host Party. Any request for access that exceeds the terms of an applicable certification or approval shall be submitted through the International Visits Program (IVP).

3.4 A Liaison Officer shall not be granted access to technical data or other information of the Host Party, whether or not classified, except as authorized by the Host Party, and only to the extent necessary to fulfill a Liaison Officer's functions hereunder.

3.5 All information to which a Liaison Officer is granted access while serving as a liaison to the Host Party shall be treated as information provided to the Parent Government, in confidence, and shall not be further released or disclosed by a Liaison Officer to any other person, firm, organization, or government without the prior written authorization of the Host Government. Disclosure of information to a Liaison Officer shall not be deemed to be a license or authorization to use such information for any purpose other than the purposes described in Article II.

3.6 A Liaison Officer shall not be permitted to participate in exercises, deployments, or civil-military actions, unless expressly authorized to do so by both the Host and Parent Parties.

3.7 The Parent-Party shall not place or keep a Liaison Officer in duty assignments in which direct hostilities with forces of third states are likely to occur or have commenced, unless approved by the Parent Party and Host Party, in writing.

3.8 A Liaison Officer shall be required to comply with the dress regulations of the Parent Party but, if requested by the Host Party, shall also wear such identification necessary to identify a Liaison Officer's nationality, rank and status as a Liaison Officer. The order of dress for any occasion shall be that which most closely conforms to the order of dress for the particular unit organization of the Host Party where a Liaison Officer is located. A Liaison Officer shall be required to comply with the practices of the Host Party with respect to the wearing of civilian clothing.

3.9 Prior to the commencement of a Liaison Officer's tour, the Parent Party shall notify the Host Party of the specific Parent Party organization which will exercise operational control over a Liaison Officer and, if different, the Parent Party organization

that will provide administrative support to a Liaison Officer and a Liaison Officer's dependents.

3.10 At the end of a Liaison Officer's tour, or as otherwise agreed by the Parties, the Parent Party may, subject to the provisions of Paragraph 3.3, replace a Liaison Officer with another individual who meets the requirements of this Understanding.

ARTICLE IV FINANCIAL ARRANGEMENTS

4.1 The Parent Party shall bear all costs and expenses of a Liaison Officer, including, but not limited to:

4.1.1 All pay and allowances of a Liaison Officer;

4.1.2 All travel by a Liaison Officer and a Liaison Officer's dependents, including, but not limited to, travel to and from the country of the Host Party;

4.1.3 All costs and expenses associated with the assignment or placement of a Liaison Officer and a Liaison Officer's dependents within the Host Party's country, including travel, office space, clerical support, quarters, rations, medical and dental services, unless specifically stated otherwise in an applicable international agreement;

4.1.4 Compensation for loss of, or damage to, the personal property of a Liaison Officer, or the personal property of a Liaison Officer's dependents;

4.1.5 The movement of the household effects of a Liaison Officer and a Liaison Officer's dependents;

4.1.6 Preparation and shipment of remains and funeral expenses associated with the death of a Liaison Officer or his dependent(s);

4.1.7 Formal and informal training of a Liaison Officer, other than briefings on Host Party requirements provided by the Contact Officer; and

4.1.8 All expenses in connection with the return of a Liaison Officer whose assignment has ended or been terminated, along with his or her dependents.

4.2 The Host Party may provide such office facilities, equipment, supplies and services as may be necessary for a Liaison Officer to fulfill the purposes, of this Understanding, subject to reimbursement by the Parent Party for the cost of a Liaison Officer's use of such facilities at rates determined by the Host-Party. Where the United States is the Host Party, reimbursement for such facilities, equipment, supplies, and services shall be made through Foreign Military Sales (FMS).

ARTICLE V SECURITY

5.1 The Host Party shall establish the maximum substantive scope and classification levels within which the disclosure of any Classified Information or Controlled Unclassified Information to a Liaison Officer will be permitted. The Host Party shall inform the Parent Party of the level of security clearance required to permit a Liaison Officer access to such information. A Liaison Officer's access to such information and facilities shall be consistent with, and limited by the terms of his/her assignment, the provisions of this Article and any other agreement between the Parties or their governments concerning access to such information and facilities. Further, access shall at all times be limited to the minimum required to accomplish the purposes of this Understanding, and, at its discretion, the Host Party may prohibit a Liaison Officer's right of access to any Host Party facility or require that such access be supervised by Host Party personnel.

5.2 Each Party shall cause security assurances to be filed, through the Australian Embassy in Washington, D.C., in the case of the Australian personnel, and through the U.S. Embassy in Canberra, Australia in the case of United States personnel, stating the security clearances for a Liaison Officer being assigned by such Party. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures. For the United States, the prescribed channels shall be the International Visits Program (IVP), as defined in paragraph 1.6 of this Understanding.

5.3 The Parent Party shall ensure that each assigned Liaison Officer is fully cognizant of, and complies with, applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), classified information and controlled unclassified information disclosed to a Liaison Officer. This obligation shall apply both during and after termination of an assignment as a Liaison Officer. Prior to taking up duties as a Liaison Officer, the Liaison Officer of Australia shall be required to sign the certification at Annex A. Only individuals who execute the certification shall be permitted to serve as Liaison Officers with the U.S. Navy.

5.4 The Parent Party shall ensure that a Liaison Officer, at all times, complies with the security laws, regulations and procedures of the Host Government. Any violation of security procedures by a Liaison Officer during his or her assignment shall be reported to the Parent Party for appropriate action. Upon request by the Host Party, the Parent Party shall remove any Liaison Officer who violates security laws, regulations, or procedures during his or her assignment.

5.5 All Classified Information made available to a Liaison Officer shall be considered to be Classified Information furnished to the Parent Party, and shall be subject to all provisions and safeguards provided for under the General Security of Military

Information Agreement (GSOMIA) in force between the United States of America and Australia.

5.6 A Liaison Officer shall not take custody of Classified Information or Controlled Unclassified information in tangible form (for example, documents or electronic files), except as expressly permitted by the terms of the Host Party certification of a Liaison Officer (and requested in writing by the Parent Government) for the following situations:

5.6.1 Couriers. A Liaison Officer may take custody of Classified Information to perform courier functions, when authorized by the Host Party certification for a Liaison Officer. The Classified information shall be packaged and receipted for in compliance with Host Party requirements.

5.6.2 On-Site Storage. A Liaison Officer may be furnished a secure container for the temporary storage of Classified Information, consistent with the terms of the certification, provided the security responsibility and control of the container and its contents remains with the Host Party.

ARTICLE VI TECHNICAL AND ADMINISTRATIVE MATTERS

6.1 The Host Party's certification or approval of an individual as a Liaison Officer shall not bestow diplomatic or other special privileges on that individual.

6.2 To the extent authorized by the laws and regulations of the Host Government, and in accordance with Article IV of this Understanding, the Host Party may provide such administrative support as is necessary for a Liaison Officer to fulfill the purposes of this Understanding, subject to reimbursement by the Parent Party.

6.3 Exemption from taxes, customs or import duties, or similar charges for a Liaison Officer or a Liaison Officer's dependents shall be governed by applicable laws and regulations or international agreement between the Host Government and the Parent Government.

6.4 If office space is provided to a Liaison Officer by the Host Party, the Host Party shall determine the normal working hours for a Liaison Officer.

6.5 The Parent Party shall ensure that the Host Party is informed as far in advance as possible of any absences of a Liaison Officer.

6.6 A Liaison Officer and his/her authorized family members shall be provided care in military medical and dental facilities to the extent permitted by applicable law, policy, and international agreement. Where a reciprocal agreement for health care exists between the Parties, the access entitlement of a Liaison Officer and his/her family members is specified. For those personnel covered by such an agreement, care is generally provided

free of charge. All Liaison Officers and family members not covered by a reciprocal agreement may be offered health care, on a reimbursable basis, in military facilities. Where military facilities are not available, a Liaison Officer shall be responsible for all medical and dental costs incurred by himself/herself and his/her family. The Parent Party shall ensure that a Liaison Officer and his/her family members are physically fit prior to a Liaison Officer's tour of duty. The Parent Party shall be responsible for familiarizing itself with the medical and dental services available to a Liaison Officer and his/her family members, and the costs of, and the procedures for, use of such services.

6.7 A Liaison Officer and his/her dependents may be accorded the use of military commissaries, exchanges, theaters and similar morale and welfare activities, in accordance with the laws, regulations, and policies of the Host Party.

6.8 To the extent permitted by the laws and regulations of the Host Government, and subject to reimbursement by the Parent Party, the Host Party may provide, if available, housing and messing facilities for a Liaison Officer and a Liaison Officer's dependents on the same basis and priority as for its own personnel of comparable rank and assignment. At locations where housing and messing facilities are not provided by the Host Party, the Host Party shall use reasonable efforts to assist the Parent Party to locate such facilities for a Liaison Officer and a Liaison Officer's dependents.

6.9 The Parent Party shall ensure that a Liaison Officer and a Liaison Officer's dependents have all documentation required by the Host Government for entry into, and exit from, the country of the Host Government at the time of such entry or exit. Unless exempted under an applicable international agreement between the Parties, Liaison Officers and their authorized dependents entering the United States shall be required to comply with United States Customs Regulations.

6.10 The Parent Party shall ensure that a Liaison Officer and those family members accompanying a Liaison Officer in the country of the Host Party shall obtain motor vehicle liability insurance coverage for their private motor vehicles, in accordance with applicable laws, regulations and policies of the Host Government, or the political subdivisions of the country of the Host Party in which a Liaison Officer and his/her family members are located.

ARTICLE VII DISCIPLINE AND REMOVAL

7.1 Except as provided in Section 7.2, neither the Host Party nor the armed forces of the Host Government may take disciplinary action against a Liaison Officer who commits an offense under the military laws or regulations of the Host Party, nor shall the Host Party exercise disciplinary powers over a Liaison Officer's dependents. The Parent Party, however, shall take such administrative or disciplinary action against a Liaison Officer as may be appropriate under the circumstances, to ensure compliance with this Understanding, and the Parties shall cooperate in the investigation of any offenses under the laws or regulations of either Party.

7.2 The certification or approval of a Liaison Officer may be withdrawn, modified or curtailed at any time by the Host Party for any reason, including, but not limited to, the violation of the regulations or laws of the Host Party or the Host Government. In addition, at the request of the Host Party, the Parent Government shall remove a Liaison Officer or a dependent of a Liaison Officer from the territory of the Host Government. The Host Party shall provide an explanation for its removal request, but a disagreement between the Parties concerning the sufficiency of the Host Party's reasons shall not be grounds to delay the removal of a Liaison Officer.

7.3 A Liaison Officer shall not exercise any supervisory or disciplinary authority over military or civilian personnel of the Host Party.

ARTICLE VIII CLAIMS

8.1 Claims arising under this MOU will be dealt with in accordance with paragraph 1 of the Chapeau Agreement. The Parties will share any costs required to be shared under subparagraph 1(b)(ii) of the Chapeau Agreement on the following basis:

8.1.1 Where responsibility for the injury, death or damage can be specifically attributed to one Party, the cost of handling and settling the claim will be the sole responsibility of that Party;

8.1.2 Where both Parties are responsible for the damage, loss, injury or death, the costs of handling and settling the claim will be apportioned between the Parties based on their degree of responsibility for the damage, loss, injury or death; and

8.1.3 Where it is not possible to attribute responsibility for the damage, loss, injury, or death, the cost of handling and settling the claim will be distributed equally between the Parties.

8.2 Claims arising under a contract will be resolved in accordance with the contract. Unless otherwise mutually determined by the Parties, the costs of claims arising as a consequence of a Contract awarded pursuant to this MOU and any of its PAs will be the sole responsibility of the Party which is the party to the Contract. The Parties will not indemnify Contractors against third party liability claims.

ARTICLE IX SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Understanding shall be resolved only through consultations between the Parties and shall not be referred to an individual, national or international tribunal, or to any other forum for settlement.

ARTICLE X
ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

10.1 All obligations of the Parties under this Understanding shall be subject to national laws and the availability of appropriated funds for such purposes.

10.2 The Parent Party shall ensure that a Liaison Officer complies with all obligations and restrictions applicable to a Liaison Officer under this Understanding.

10.2 This Understanding may be amended by the mutual written agreement of the Parties.

10.3 This Understanding may be terminated at any time by written agreement of both Parties. In the event both Parties agree to terminate this Understanding, the Parties shall consult prior to the date of termination.

10.4 Either Party may terminate this Understanding upon one hundred and eighty (180) days' written notification to the other Party.

10.6 In the event of conflict between the terms of this Understanding and the terms of an applicable Letter of Offer and Acceptance (LOA), the terms of the LOA shall control. Any Letters of Offer and Acceptance (LOAS) associated with or related to this Understanding shall be terminated in accordance with their terms.

10.7 The respective rights and responsibilities of the Parties under Article V (Security) shall continue, notwithstanding the termination or expiration of this Understanding.

10.8 No later than the effective date of expiration or termination of this Understanding, each Party shall remove its Liaison Officer(s) and such Liaison Officers(s) dependents from the territory of the other Party and pay any money owed to the other Party under this Understanding. Any costs or expenses for which a Party is responsible pursuant to Article IV of this Understanding, but which were not billed in sufficient time to permit payment prior to termination or expiration of this Understanding, shall be paid promptly after such billing.

10.9 This Understanding shall supercede any and all prior agreements regarding Liaison Officers entered into by the Parties or their organizations, units, or agencies.

10.10 This Understanding shall enter into force upon signature by both Parties. This Understanding shall remain in force for five (5) years and may be extended by written agreement of the Parties.

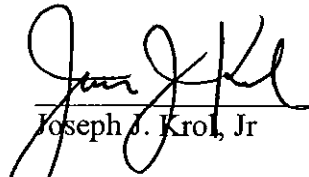
10.11 This Understanding consists of ten (10) Articles and an Annex.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Understanding.

DONE at the Pentagon, Washington, DC this 18th day of September 2002.

ON BEHALF OF
THE UNITED STATES NAVY

ON BEHALF OF
THE ROYAL AUSTRALIAN NAVY



Joseph J. Krol, Jr

9/18/02
Date

Rear Admiral, U.S. Navy

Deputy Chief of Naval Operations
for Plans, Policy and Operations



John H. McCaffrie

18/09/02
Date

Commodore, Royal Australian Navy

Naval Attaché to the United States

ANNEX A - CERTIFICATION

Date: _____

SECTION I LIAISON OFFICER LEGAL STATUS OF CERTIFICATION

As a representative of the Royal Australian Navy under the auspices of an Extended Visit Authorization to the United States Navy (U.S. Navy), I am subject to the jurisdiction of United States federal, state, and local laws, except as provided by treaty, other specific legal authority, or the terms of any diplomatic immunity which I may have been granted. I understand that my acceptance of a Liaison Officer position does not bestow diplomatic or other special privileges.

SECTION II LIAISON OFFICER CONDITIONS OF CERTIFICATION

- (1) **Responsibilities:** I understand that my activities shall be limited to the representational responsibilities of my government and that I am expected to present the views of my government with regard to the issues which my government and the U.S. Government have a mutual interest. I shall not perform duties that are reserved by law or regulation to an officer or employee of the U.S. Government.
- (2) **Costs:** I understand that all costs associated with my duties as a Liaison Officer shall be the responsibility of my government, including, but not limited to, travel, office space, clerical services, quarters, rations, and medical and dental services.
- (3) **Extensions and Revalidation:** I understand that if my government desires to request an extension or revalidation of my position beyond the original dates for which I am certified, a new visit request shall be submitted not later than 30 days prior to the expiration date of the current Extended Visit Authorization.
- (4) **Contact Officer:** I understand that when the certification process is completed, a Contact Officer(s) shall be assigned to sponsor me during my visit to the U.S. Navy. I further understand that I shall coordinate, through my Contact Officer, all requests for information, visits, and other business which fall under the terms of my certification. I also understand that requests for information which are beyond the terms of my certification shall be made through the Office of the Defense Attache.
- (5) **Other Visits:** I understand that visits to facilities for which the purpose does not directly relate to the terms of my certification shall be made through the Office of the Defense Attache.

(6) **Uniform:** I understand that I shall wear my national uniform when conducting business at U.S. Department of Defense facilities, unless otherwise directed. I shall comply with my Parent Government's service uniform regulations.

(7) **Duty Hours:** I understand that my duty hours are Monday through Friday, from 07:30 to 16:00. Should I require access to my work area during non-duty hours, I am required to request permission from the Command Security Officer. I further understand that it is not necessary to assign a United States escort officer to me during my non-duty access. Any cost incurred as a result of such non-duty access may be reimbursable to the United States Government.

(8) **Security:**

a. I understand that access to U.S. Government information shall be limited to that information determined by my Contact Officer to be necessary to fulfill the functions of a Liaison Officer. I also understand that I may not have unsupervised access to U.S. Government computer systems, unless the information accessible by the computer is releasable to my government in accordance with applicable U.S. law, regulations and policy.

b. All information to which I may have access during my certification shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization, or government without the prior written-authorization of the United States Government.

c. I shall immediately report to both my Contact Officer should I obtain or become knowledgeable of United States Government information for which I am not authorized to have access. I further agree that I shall report to my Contact Officer any incidents of my being offered or provided information that I am not authorized to have.

d. If required, I shall display a security badge on my outer clothing so that it is clearly visible. The United States Government shall supply this badge.

(9) **Compliance:** I have been briefed on, fully understand, and shall comply with the terms and conditions of my certification. Failure to comply may result in termination of my certification. I further understand that the termination of my certification does not preclude further disciplinary action in accordance with any applicable Status of Forces Agreement or other government-to-government agreements.

(10) **Definitions of Terms:** Terms not defined herein shall have the definitions ascribed to them in the applicable Agreement governing my assignment as a Liaison Officer.

SECTION III
LIAISON OFFICER
TERMS OF CERTIFICATION

- (1) **Contact Officer:** _____ has been assigned as my Contact Officer.
- (2) **Certification:** I am certified to the U.S. Navy in support of the following programs/topics/etc.: the development of tactics, techniques and procedures (TTP) for surface ship air, surface, undersea, and amphibious warfare, including procedures to enhance coalition interoperability.
- (3) **Travel:** I may visit the following locations under the terms of my certification, with the permission of my Contact Officer: embark on various U.S. Navy surface combatants, visit commands involved in the development and evaluation of TTP at Norfolk, Virginia; Virginia Beach, Virginia; Dahlgren, Virginia; Washington, DC; Mayport, FL.

SECTION IV
LIAISON OFFICER
CERTIFICATION OF IN-BRIEFING

I, LCDR MICHAEL TURNER, Royal Australian Navy, understand and acknowledge that I have been certified as a Liaison Officer to the United States Navy, as agreed upon between the Royal Australian Navy and the United States Navy. I further acknowledge that I fully understand and have been briefed on: (1) the legal status of my certification; (2) the conditions of my certification; and (3) the terms of my certification. I further acknowledge that I shall comply with the conditions and responsibilities of my certification.

Signed: _____ Date: _____

Michael Turner
LCDR, Royal Australian Navy

Signed: _____ Date: _____

Briefer: _____
(Printed Name of Briefer)

Location of Brief: _____